

April 17, 2008

## REASONABLE ACCOMMODATION IN FEDERAL EMPLOYMENT

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive provides policy promoting a model workplace for persons with disabilities.

### 2. BACKGROUND

a. Equal opportunity laws and the Department of Veterans Affairs (VA) regulations prohibit discrimination based upon disability in all aspects of employment. This policy enhances procedures to process allegations of discrimination on the basis of disability. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, became effective on July 26, 2000.

b. This policy promotes a model workplace which provides:

(1) Reasonable accommodation for applicants with disabilities to obtain Federal employment.

(2) Federal employees with disabilities who can perform the essential functions of a position, the opportunity to be placed in such a position.

(3) Federal employees with disabilities, the right to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

(4) Specific responsibilities for management officials.

(5) The means to establish the basic requirements and procedures to ensure compliance with all Federal mandates prohibiting disability discrimination in employment.

**3. POLICY:** It is VHA policy that effective written procedures prohibiting discrimination based on disability, consistent with VA policy for processing requests for reasonable accommodation by employees and applicants with disabilities, must be established by VHA Central Office and facility Directors.

### 4. ACTION

a. VHA Central Office Chief Officer, Workforce Management and Consulting Office (10A2), Veterans Integrated Service Network (VISN) Directors, and facility Directors. VHA Central Office Chief Officer, Workforce Management and Consulting Office, VISN Directors, and facility Directors are responsible for:

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(1) Establishing a Reasonable Accommodation Committee (RAC).

(a) The RAC may be composed of such individuals as the Human Resources Selective Placement Coordinator, the Equal Employment Opportunity (EEO) Manager, Employee Assistance Program Manager, a member of the behavioral sciences staff, a practicing line supervisor, a chaplain, the Employee Health Physician, and a member of the Regional Counsel (who needs to be available for consultation).

(b) The RAC serves in an advisory capacity to the medical center Director, or designee, and ensures that the reasonable accommodation process is conducted in a timely manner.

(c) Once an individual is determined to be an individual with a substantial impairment by qualified medical staff, the RAC is responsible for:

1. Determining whether the person is an individual with a disability under the Rehabilitation Act,

2. Determining whether the person is a “qualified” individual with a disability under the Rehabilitation Act, and then

3. Providing recommendations for a reasonable accommodation in consultation with and in consideration of the employee’s suggested accommodations.

*NOTE: At the facility level, the final decision on all reasonable accommodation requests is made by the medical center Director, or designee, in consultation with the RAC.*

(2) Effective written procedures for processing requests for reasonable accommodation of employees and job applicants with disabilities for employment. The written procedures must ensure expeditious processing of requests to include the following:

(a) An explanation of how an employee or job applicant may initiate a request for reasonable accommodation either orally or in writing.

(b) An explanation of how the request for reasonable accommodation is processed, and from whom the individual will receive a final decision.

(c) A designated time period to grant or deny the reasonable accommodation request in the absence of extenuating circumstances. **NOTE:** *Time limits are to be as short as reasonably possible, 30 days or less. If an extension is needed, the RAC makes a recommendation to the medical center Director, or designee, regarding the timeframe needed to complete the assessment.*

(d) An explanation of the responsibility of the employee or job applicant to provide appropriate medical information related to the functional impairment at issue, and the requested accommodation where the disability or need for accommodation is not obvious.

(e) An explanation of the right to request the job applicant or employee present supplemental medical information, if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job, or to enjoy the benefits and privileges of the workplace.

(f) An explanation of the right to have the job applicant's or employee's medical information reviewed by a medical expert of the agency's choosing at the agency's expense.

(g) A provision that reassignment or part-time employment will be considered as a reasonable accommodation, if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of the current position.

(h) A provision that reasonable accommodation denials must be in writing and specify the reasons for denial.

(i) A provision that ensures the facility's system of records tracks the processing of requests for reasonable accommodation. The system of records must be designed to ensure the confidentiality of all medical information, including the secure storage of such information. Additionally, the established system of records must allow for periodic summary data on accommodations requests.

(j) A provision that encourages the use of alternate dispute resolution (ADR), which allows individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Individuals with disabilities must be informed that they have the right to file complaints in the EEO Discrimination Complaint process with the Office of Resolution Management (ORM) and other statutory processes, if their requests for reasonable accommodation are denied.

b. **VHA Program Officers and Supervisors.** All VHA program officers and supervisors must honor their obligations to notify collective bargaining representatives, and to "bargain" over such procedures to the extent required by law.

## 5. REFERENCES

a. VA Directive 5975.1, Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities.

b. Executive Order 13164, Requiring Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation.

c. Equal Employment Opportunity Commission (EEOC) Directives Transmittal 915.003 on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation at: [http://www.eeoc.gov/policy/docs/accommodation\\_procedures.html](http://www.eeoc.gov/policy/docs/accommodation_procedures.html)

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d. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act at: <http://www.eeoc.gov/policy/docs/accommodation.html>

e. The Rehabilitation Act of 1973, Sections 501 and 508.

f. The Disabilities Act of 1990.

g. Title 29 United States Code (U.S.C.) Section 791.

h. Title 29 Code of Federal Regulations (CFR) 1614.

i. Notice 912.005.

j. Executive Order 13164, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities.

**6. FOLLOW-UP RESPONSIBILITY:** The Workforce Management and Consulting Office, and the EEO/Affirmative Employment Team (10A2E) are responsible for the contents of this Directive. Questions may be addressed to (202) 461-7290.

**7. RESCISSIONS:** VHA Directive 2001-070 is rescinded. This VHA Directive expires April 30, 2013.

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